

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. 5:24-cv-00902-AB-SHK

Date: September 4, 2024

Title: *Lynn Macy v. CSA 18 Special Districts Public Works*

Present: The Honorable Shashi H. Kewalramani, United States Magistrate Judge

D. Castellanos

Deputy Clerk

Not Reported

Court Reporter

Attorney(s) Present for Plaintiff(s):

None Present

Attorney(s) Present for Defendant(s):

None Present

Proceedings (IN CHAMBERS): ORDER HOLDING SECOND SAC IN ABEYANCE

On August 15, 2024, the Court issued its Report and Recommendation (“R&R”) of the United States Magistrate Judge to Grant Defendant’s Motion to Dismiss (“MTD”). Electronic Case Filing Number (“ECF No.”) 35, R&R. In the R&R, the Magistrate Judge recommended that the District Judge: (1) accept the findings in the R&R; (2) grant Defendant’s MTD; (3) dismiss the First Amended Complaint (“FAC”) without prejudice and with leave to amend; and (4) order that Plaintiff has 21 days from the date of the Order accepting the R&R to file a Second Amended Complaint (“SAC”) if she wishes to pursue this action further.

On August 23, 2024, Plaintiff filed an Amended Complaint, which the Court construed as a SAC. ECF No. 37, SAC. However, on August 27, 2024, Plaintiff filed a Request to Strike the SAC (“Request”). ECF No. 38, Request. On August 30, 2024, the Court granted Plaintiff’s Request and struck the SAC from the docket (“Strike Order”). ECF No. 39, Strike Order.

In the Strike Order, the Court concluded that striking Plaintiff’s SAC was appropriate because “the District Judge assigned to this case has not yet addressed the findings and recommendations set forth in the Magistrate Judge’s R&R” and, therefore, “any SAC filed that supersedes Plaintiff’s FAC, while an R&R addressing the merits of Plaintiff’s FAC is pending review by the District Judge, is premature.” *Id.* at 1. The Court reminded Plaintiff that “until the District Judge issues an order addressing the recommendations set forth in the R&R, Plaintiff shall refrain from filing a SAC” and Plaintiff was “**cautioned that any SAC filed before the District Judge addresses the R&R may be stricken by the Court as premature.**” *Id.* at 2 (emphasis in original).

On September 3, 2024, the Court received another amended complaint from Plaintiff, dated August 29, 2024, which it construes as another SAC (“Second SAC”). ECF No. 41, Second SAC.

On August 30, 2024, Defendant “object[ed] to Plaintiff’s electronic service of [the] Second SAC on Defendant” (“Objection” or “Obj.”) as premature. ECF No. 40, Obj. at 3. Specifically, Defendant argues that “[t]he District Judge assigned to this case has not yet addressed the findings and recommendations set forth in the Magistrate Judge’s R&R” and, “[c]onsequently, any SAC filed that supersedes Plaintiff’s FAC, while an R&R addressing the merits of Plaintiff’s FAC is pending review by the District Judge, is premature.” Id.

Here, the Court agrees with Defendant that Plaintiff’s Second SAC was prematurely filed for the reasons set forth in the Court’s Strike Order. Specifically, because the District Judge assigned to this case has not yet addressed the findings and recommendations set forth in the R&R, any SAC filed that supersedes Plaintiff’s FAC, while an R&R addressing the merits of Plaintiff’s FAC is pending review by the District Judge, is premature.

Consequently, the Defendant’s Objection is **SUSTAINED** and the Second SAC is held in **ABEYANCE** until: (1) the District Judge assigned to this case addresses the findings and recommendations set forth in the R&R; and (2) the Court issues an order removing the abeyance.

Plaintiff is again reminded that until the District Judge issues an order addressing the recommendations set forth in the R&R, Plaintiff shall refrain from filing any additional amended complaints. **Plaintiff is also cautioned that any additional amended complaints filed before the District Judge addresses the R&R may be stricken by the Court as premature.**

IT IS SO ORDERED.